



ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE**A.D. 1987**

No. 101 of 1987**An Act to amend the Agricultural Chemicals Act, 1955.***[Assented to 17 December 1987]*

The Parliament of South Australia enacts as follows:

- Short title.** 1. (1) This Act may be cited as the “Agricultural Chemicals Act Amendment Act, 1987”.
- (2) The Agricultural Chemicals Act, 1955, is in this Act referred to as “the principal Act”.
- Commencement.** 2. (1) This Act will come into operation on a day to be fixed by proclamation.
- (2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.
- Amendment of long title.** 3. The long title to the principal Act is amended by inserting after “the sale” “and use”.
- Amendment of s. 4—
Interpretation.** 4. Section 4 of the principal Act is amended—
- (a) by inserting after the definition of “analyst” in subsection (1) the following definition:
- “fodder” means food of any kind used for feeding livestock;;
- (b) by striking out the definition of “inspector” in subsection (1) and substituting the following definition:
- “inspector” means an inspector appointed under this Act or under the Stock Diseases Act, 1934;;
- (c) by inserting after the definition of “package” the following definition:
- “premises” means any land, building or structure;;
- and

(d) by inserting after the definition of “specimen copy” the following definition:

“vehicle” includes a vessel or aircraft.

5. Section 8 of the principal Act is amended by striking out “Penalty: Two hundred dollars” and substituting:

Amendment of
s. 8—
Agricultural
chemicals to be
sold in labelled
packages.

Penalty—

—if the offender is a body corporate—\$40 000;

or

—if the offender is a natural person—\$20 000.

6. Section 9 of the principal Act is amended by striking out from subsection (1) “Penalty: Two hundred dollars” and substituting:

Amendment of
s. 9—
Substance not
complying with
particulars.

Penalty—

—if the offender is a body corporate—\$40 000;

or

—if the offender is a natural person—\$20 000.

7. Section 10 of the principal Act is amended by striking out “One hundred dollars” and substituting “\$5 000”.

Amendment of
s. 10—
False or
misleading
description, etc.

8. Section 11 of the principal Act is amended by striking out from subsection (1) “Penalty: One hundred dollars” and substituting:

Amendment of
s. 11—
Standards.

Penalty—

—if the offender is a body corporate—\$40 000;

or

—if the offender is a natural person—\$20 000.

9. The following sections are inserted after section 11 of the principal Act:

Insertion of new
ss. 11a, 11b and
11c.

11a. (1) A person who has possession of an agricultural chemical sold under a registered label must keep the chemical in a package on which a copy of the registered label is displayed and must not remove the chemical from the package except to the extent required for an authorized purpose.

Removal of
agricultural
chemical.

Penalty—

—if the offender is a body corporate—\$40 000;

or

—if the offender is a natural person—\$20 000.

(2) Subject to a declaration by the Minister under subsection (3), an authorized purpose is—

(a) a purpose stated on the label under which the chemical was sold (whether or not the registration of that label is still in force);

(b) if the registered label has been altered by the Minister under section 19—a purpose stated on the registered label as altered;

- (c) a purpose authorized by the Minister;
- (d) if the person is engaged in the business of manufacturing agricultural chemicals—the purpose of manufacturing another agricultural chemical;

or

- (e) the transfer of the chemical to another package on which a copy of the same label is displayed.

(3) The Minister may, by notice published in the the *Gazette* and in a newspaper circulating generally throughout the State, declare that a particular purpose is not an authorized purpose in relation to an agricultural chemical referred to in the notice.

Use of
agricultural
chemical.

11b. (1) Subject to subsection (2), a person must not use an agricultural chemical except—

- (a) for an authorized purpose;

and

- (b) in accordance with any directions applicable to that use—

- (i) stated on the label registered in relation to the chemical;

or

- (ii) given by the Minister in authorizing the use of the chemical for the relevant purpose.

(2) A person must not use an agricultural chemical in accordance with directions stated on a label if the Minister has, by notice published in the *Gazette* and in a newspaper circulating generally throughout the State, declared that the chemical should not be used in accordance with those directions.

(3) A person who contravenes a provision of this section is guilty of an offence.

Penalty—

—if the offender is a body corporate—\$40 000;

or

—if the offender is a natural person—\$20 000.

Removal of label.

11c. A person must not remove a copy of a label from a package that contains an agricultural chemical in relation to which the label was registered.

Penalty: \$5 000.

Repeal of ss. 24
and 25 and
substitution of
new sections.

10. Sections 24 and 25 of the principal Act are repealed and the following section is substituted:

Powers of
inspectors.

24. (1) Subject to this section, an inspector may—

- (a) enter any premises or vehicle, in which the inspector suspects on reasonable grounds that there may be an agricultural chemical, for the purposes of ascertaining whether the provisions of this Act are being complied with;

and

(b) for that purpose, require the person in control of a vehicle, to stop the vehicle.

(2) An inspector must not enter premises used as a place of residence unless authorized by warrant under subsection (3).

(3) A justice may, if satisfied on the application of an inspector that there is a proper ground for doing so, issue a warrant authorizing an inspector to enter premises used as a place of residence.

(4) While an inspector is in or on any premises or vehicle pursuant to this section, the inspector may—

(a) inspect or search the premises or vehicle;

(b) require any person to produce any books, papers or documents or any agricultural chemical or other substance;

(c) examine any books or documents and take extracts from any of them or make copies of any of them and, for that purpose, remove the books or documents;

(d) examine any agricultural chemical or other substance or any equipment on the premises or vehicle;

(e) take from the premises or vehicle samples of any agricultural chemical or other substance for analysis;

(f) take photographs;

(g) where the inspector suspects on reasonable grounds that an offence against this Act has been committed—seize and remove from the premises or vehicle anything that the inspector has reasonable cause to suspect affords evidence of the offence;

(h) give such directions as are reasonably necessary for, or incidental to, the effective exercise of powers under this Act.

(5) An inspector may require any person to answer questions relevant to the enforcement of this Act to the best of that person's ability.

(6) A person may not decline on the grounds of self-incrimination to answer a question put by an inspector under this section but the answer to any such question will not be admissible except—

(a) in civil proceedings;

or

(b) in proceedings for an offence against this Act.

(7) If, in the opinion of an inspector, a person has committed, is committing or is about to commit an offence against this Act in relation to an agricultural chemical, the inspector may seize and remove the chemical.

(8) Where in the opinion of an inspector fodder is contaminated with a prescribed agricultural chemical and the level of contamination exceeds the level prescribed in relation to that chemical, the inspector may, by notice in writing, direct the owner of the fodder—

(a) to destroy or treat it in accordance with directions set out in the notice;

or

(b) not to use it for a period stated in the notice.

(9) If a person on whom notice is served under subsection (8) does not comply with the notice, the inspector may destroy the fodder and the cost of destruction will be a debt due by that person to the Minister.

(10) A notice referred to in subsection (8) may be served—

(a) on the owner personally;

(b) by posting it to the owner's last known address;

or

(c) by fixing it in a prominent position on the premises where the fodder is situated.

(11) In the exercise of powers under this section, an inspector may be accompanied by such persons as the inspector considers necessary or desirable in the circumstances.

(12) A person must not—

(a) hinder or obstruct an inspector, or a person accompanying an inspector, in the exercise of the powers conferred by this section;

or

(b) refuse or fail to comply with a requirement made or direction given, pursuant to this section.

Penalty: \$5 000 or imprisonment for 6 months.

Repeal of s. 30.

11. Section 30 of the principal Act is repealed.

Repeal of s. 31
and substitution
of new sections.

12. Section 31 of the principal Act is repealed and the following sections are substituted:

Secrecy.

31. A person must not divulge or communicate information obtained in, or in connection with, the administration of this Act except—

(a) with the consent of the person from whom the information was obtained;

(b) for the purposes of legal proceedings under this Act;

or

(c) for any other purpose connected with the administration of this Act.

Penalty: \$10 000.

Responsibility for
offences by
bodies corporate.

31a. If a body corporate is guilty of an offence against this Act—

(a) each director of the body corporate;

and

(b) each manager of the body corporate or any aspect of its business who was involved in the circumstances of the offence,

is guilty of an offence and is liable to the penalty to which a natural person is liable for the principal offence unless it is proved that the director or manager could not, by the exercise of reasonable diligence, have prevented the commission of the offence by the body corporate.

13. Section 32 of the principal Act is amended by striking out "one hundred dollars" from paragraph (g) of subsection (1) and substituting "\$5 000".

Amendment of
s. 32—
Regulations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor